

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

WILLIE McCRAY, # 183709,
Petitioner,

V.S.

WILLIE THOMAS,
Respondent,

CASE NO: 1:06-CV-1107 WKW

PETITIONER'S RESPONSE TO COURT'S ORDER

Comes now the Petitioner, Willie McCray proceeding Pro-se and through Inmate assistance and hereby responds to this court's ORDER of July 11, 2007, whereas, this Court Ordered the Petitioner to respond by July 31, 2007. And in compliance with this Order, the Petitioner will show as follows;

The Petitioner has alleged that his appointed Couse, Joseph W. Lewis had fail to inform him that the Alabama Court of Criminal Appeals had overruled his application for Rehearing.

The Petitioner, not being trained in the Law, always give his legal mail to the Inmate Law clerk that was assisting him in prepairing his pleadings, and he was not aware that Attorney Lewis had sent the document.

The Petitiuoner was not aware that the Inmate helping him with his pleadings had filed the Motion For Appointment of Counsel to the Alabama Court of Criminal Appeals.

Your Petitioner was not trying to decieve the Court, but was only acting on what

appeared to be the true facts of this Case.

It is clear from the record before the Court that he had made several attempts to get Attorney Lewis to send him his Documents, and he fail to do so. In fact, from the date that the alleged Motion to Withdraw, On December 31, 2001 and the time that the Court Of Criminal Appeals overruled the Application for Rehearing on December 21, 2001, and the time that it takes the mail to reach the Petitioner, the time limit would have already expired to file his Writ of Certiorari to the Alabama supreme Court, that, coupled with the fact, as the record will clearly show, the Petitioner did not have copies of the Appellate/Appellee Briefs, the opinion of the Court of Criminal Appeals, which has to accompany the Application for Writ of Certiorari or the Trial Transcript in which to base his Appealable issues on, it would have been impossible to attempt to file an Application for Writ of Certorari to the Alabama Supreme Court.

The fact that the Petitioner is untrained or unschooled in the Law, does not change the fact that he is obligated to follow the Rules of Court, whether State or Federal Rules, however, the Petitioner has presented Viable Issues in his Petition For Writ of Habeas Corpus, that would entitle him to relief from his conviction/sentence, and a failure to entertain the Petition would result in a **fundamental miscarriage of justice**, and a person incarcerated in the Alabama Department of Corrections for a crime that he is actually innocent of committing.

The Indictment in this case clearly shows that McCray was originally indicted for the offense of Capital Murder, and after his case was remanded for a new trial, petitioner was tried and convicted for a lessor offense, not included in the indictment but the exact

same indictment was used and viewed by the second Jury that convicted the Petitioner. The Law is well settled, and pointed out in the Habeas Corpus Petition filed by McCray.

Despite the procedural Bars, as alleged by the Respondent's, this Petitioner respectfully rerquest that this Honorable Court will entertain this Petition, and Order the Circuit Court of Houston County Alabama to conduct a new trial/new sentencing proceeding or any other relief this Court deems proper and just, under the circumstances.

Respectfully Submitted

Willie McCray
Willie McCray # 183707

CERTIFICATE OF SERVICE

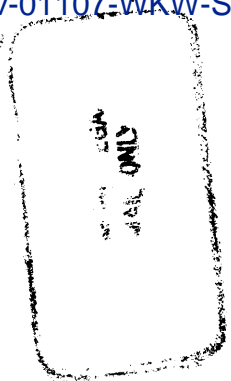
I hereby certify I have served a copy of the foregoing onn the parties listed below by placing same in the United States mail properly addressed and postage pre-paid this

25th day of July, 2007

STATE OF ALABAMA
OFFICE OF
ATTORNEY GENERAL
11 South Union Street
MONTGOMERY, ALABAMA 36130-0152

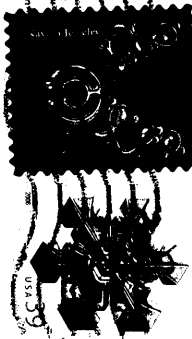
Willie McCray
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